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Press Item for the DCI

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Bank Secrecy 410

LAUSANNE, Switzerland AP - In a precedent-setting ruling, Switzerland's federal Supreme Court has upheld the U.S. Justice Department's right to access to secret Swiss bank files that figured in a multimillion-dollar fraud against the U.S. Government.

The ruling, just made public, rejects a suit by a Zurich bank and one of its executives named in a U.S. federal indictment as a coconspirator in the swindle involving overcharges on U.S. Navy defense contracts.

According to evidence presented at a U.S. District Court in Washington the Zurich banker and another Swiss banking official in the town of Aargau made it possible for two Americans, since convicted in the case, to channel \$3.3 million into secrecy-protected Swiss accounts.

The two Americans, Washington attorney Francis N. Rosenbaum and St. Louis businessman Andrew L. Stone pleaded guilty to fraud and were sentenced to 10-year terms Feb. 10.

The Swiss bankers, who were not charged in the U.S. case, were alleged to have supplied Stone and Rosenbaum with fictitious bills from European dummy firms used in overcharging the Navy on aircraft rocket launchers. Swiss criminal inquiries against them are nearing completion.

One of them, Hans Senn, and his bank last year brought a suit against the Justice Department and Zurich prosecution authorities who had made the secret bank files available to the U.S. Government.

The suit went to the Supreme Court after the Zurich cantonal prosecutor had rejected an earlier appeal by Rosenbaum, Senn and the Zurich bank demanding that the United States be denied access to the files. The prosecutor insisted that the U.S. had the "status of an injured party" in the Stone-Rosenbaum case.

The Swiss proceedings against the bankers had been prompted by an American criminal complaint. The federal Supreme Court ruled invalid Senn's claim that American authorities had acted "with the mere aim of having access to bank documents which otherwise could not be examined."

"In fact it is sufficiently clear from the files of the inquiry that the criminal complaint was not improperly filed by the United States," the federal court stated.

It emphasized that its ruling is not to prejudice the outcome of the Swiss proceedings.

Senn's lawyer said he believes his client's role in the Stone-Rosenbaum affair does not constitute an offense under Swiss law. The lawyer said making out fictitious bills could not be considered forgery. He also said the banker could not be accused of complicity in fraud because he had no idea for what purpose the bills were needed.

The name of the other Swiss banker in the case is being withheld pending completion of the inquiry. He did not figure in the federal Supreme Court ruling.

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